

**Industrial Commission's Advisory Committee
On Workers' Compensation**

**Minutes
August 24, 2004**

Members Present:

Jack Barrett
Alan Gardner
John Greenfield
Senator Andreason
Dave Gribskov
Bob Shosted

Rian Van Leuven
Steve Millard
Dave Whaley
Keith Hutchinson
Tracy Whigam

Members Absent:

Sue Dokken
Willis Norton
John Tippetts

Minutes of May 11, 2004

The Minutes of May 11, 2004, were reviewed and discussed. Upon motion by Dave Whaley, and seconded by Rian Van Leuven, the Minutes were approved as written.

Medical Fee Database

Dave Gribskov reported that the Medical Fee Task Force has not met since the last Advisory Meeting. Mr. Gribskov stated he spoke with staff at Blue Cross and Blue Shield and although they would not agree to share their fee schedule they did agree to share their charge data to supplement our data for the proposed database. Mr. Gribskov submitted 600 CPT codes to Blue Shield and Blue Cross for their charge data. When received, that charge data will be combined with the charge data received from the State Insurance Fund, Corvel, and Liberty NW. All of the charge data will be "scrubbed" and a determination of how to use the data will need to be determined. Mr. Gribskov discussed a Cost Comparison schedule of twenty CPT codes indicating the differences in Idaho's average provider charges compared to twelve other randomly chosen fee schedule states. Liberty Northwest provided the data. After discussion Dave Whaley asked if Mr. Gribskov could provide the same data for the states of Wyoming and Utah. Mr. Gribskov said he would look into providing that information. Mr. Barrett reported that Idaho workers' compensation medical costs continue to rise at a disproportionate rate from other states.

Steve Millard asked that Ron Hodge, Associate Executive Director of the Idaho Medical Association (IMA) and special member of the Medical Fee Task Force, review the information Mr. Hodge provided the Advisory Committee and the recommendation of the IMA. Mr. Hodge stated that the IMA Board of Trustees was uncomfortable submitting a recommendation to the Commission since the IMA is an advocacy group. However, the IMA staff recommended that the Commission use an established medical fee schedule, such as Blue Cross or Blue Shield, and adjust it appropriately for workers'

compensation. Mr. Hodge reported that during an IMA meeting, the medical directors of Blue Cross and Regence Blue Shield preliminarily indicated that they were willing to share their fee schedule with the Industrial Commission. He noted that Regence Blue Shield's fee schedule could be accessed on the Internet. Mr. Hodge also presented documents indicating the procedural differences in treating a non-industrially injured person and a workers' compensation claimant. Mr. Hodge recommends the task force meet with Blue Cross and Regence Blue Shield to investigate the possibility of accessing their fee schedules.

Public Comment: Rich Monson with the Industrial Commission and a member of the Medical Fee Task Force, remarked that the cost comparison schedules showing Idaho's 2003 average charge is what physicians are charging now and those fees are comparable to Oregon's fee schedule.

The consensus of the Advisory Committee was to reconvene the medical fee task force, meet with Blue Cross and Regence Blue Shield to determine the feasibility of using their medical fee schedules, and determine if a mandatory fee schedule is warranted. Steve Millard volunteered to facilitate a meeting with Blue Cross and Regence Blue Shield.

Commission Finances

Bob Shosted reported that the Commission Finance subcommittee has not met since the last Advisory Committee meeting, but deferred to Commissioner Limbaugh for an update on the Commission's financial status. Commissioner Limbaugh reported that rates for workers' compensation insurance have increased and therefore premium tax receipts have increased. The Commission saved fifteen and one-half percent (15 ½ %) of last year's appropriation, and with the rise in premium tax the Commission has managed to put one million dollars (\$1,000,000) in savings. The previous fiscal year, the Commission managed to save one and one-half million dollars (\$1,500,000), but had to use \$550,000 of that savings to get through the end of the year. If deferred programs are taken off the shelf, the Commission will be using more of its appropriation. Commissioner Limbaugh would like to propose changing the premium tax rate to include a trigger effect that would reduce the premium tax rate when a certain amount of savings occur, and when savings diminish, it would increase the premium tax rate.

Commissioner Limbaugh informed the members that the Division of Building Safety has indicated that they will be spending more of their appropriation this year. Commissioner Limbaugh also indicated that finding alternative funding for the Division of Building Safety is not feasible at this time, as predictions for the General Fund in FY2007 are not optimistic.

Bob Shosted asked the Commission to provide a more detailed accounting in the Annual Report to show the results produced by hiring new investigators in the Industrial Commission's Compliance Bureau. Mr. Shosted indicated he would reconvene the fiscal subcommittee to research a trigger effect for premium tax rates.

Mr. Barrett stated that in his research of uninsured employer funds, establishment of those funds typically comes from a state's general fund and is then sustained by penalties and fees for non-compliance. At this time, Idaho's general fund is insufficient to support or establish an uninsured employer fund.

Public Comment – Woody Richards volunteered to serve as a special member on the finance subcommittee.

Physician Deposition/Conference Fee Meeting

Keith Hutchinson reported that he, Dave Gribskov and Mindy Montgomery met with representatives of the Idaho Medical Association (Bob Seeheusen and Ron Hodge). After discussing the problem of some medical providers charging extreme fees for depositions and conferences, Mr. Seeheusen indicated that the Idaho Medical Association does not have enforcement capabilities. He suggested the committee identify the outliers and direct communication to them letting them know they are out of line with what other medical providers are charging and copy the Idaho Medical Association. Mr. Hutchinson reported that the only other alternative is for the Industrial Commission to establish a fee schedule for depositions and conference fees, however, the subcommittee does not want Commission regulation of these fees at this time. Mr. Hutchinson is currently collecting data from across the state to determine whom to send the letters to and then will draft a letter to the Commission for approval.

Committee Membership Elections

Jack Barrett reported that the Nominating subcommittee met a couple of weeks ago to review the nominations and try to resolve the unequal distribution of term expirations. The one-time solution the subcommittee recommends to the Advisory Committee is as follows:

1 Attorney primarily representing Claimants	1 year term
1 Attorney primarily representing Employers	1 year term
1 Insurance Representative	1 year term
1 Medical Provider Representative	2 year term

At the expiration of the above terms, members will serve the normal three-year term.

Mr. Barrett asked for consensus to recommend to the Industrial Commission the above listed exceptions for adoption. Consensus was reached.

Nominations for members whose term on the Advisory Committee had expired were discussed and reviewed. Names of individuals recommended for membership by various groups around the state were placed on the ballot including current members who volunteered to serve another term.

The final ballot included the following nominees:

Chairman

John Greenfield, Attorney

1 Attorney Primarily Representing Employers (3 year term)

Thomas Baskin, Boise

Max Sheils, Boise

1 Attorney Primarily Representing Employers (1 year term)

Jack Barrett, Boise

Thomas Baskin, Boise

Max Sheils, Boise

1 Representative of Medical Providers (2 year term)

Steve Millard, Idaho Hospital Assn., Boise

David Kirk, Piton Medical Mgmt., Intermtn. Surgery Ctr., Intermtn.

Orthopedics, Boise

Bryan Storer, Advanced Chiropractic/Storer Law Office, Boise

Joseph Caroselli, Idaho Elks Rehabilitation Hospital, Boise

1 Attorney Primarily Representing Claimants (3 year term)

John Greenfield, Boise

Hugh Mossman, Boise

1 Attorney Primarily Representing Claimants (1 year term)

Keith Hutchinson, Twin Falls

Hugh Mossman, Boise

1 Representative of Workers (3 year term)

Willis Norton, Ironworkers Local #732, Pocatello

1 Representative of Employers (3 year term)

Michael Cloke, CCI Speer, Lewiston

Larry Nelson, Coeur Silver Valley, Wallace

Linda J. Sams, Litehouse, Inc., Sandpoint

1 Representative of the Insurance Industry (1 year term)

Bob Shosted, J. R. Simplot Company, Boise

Ballots were tabulated and the results of the votes were as follows:

Chairman	John Greenfield	1 year term
1 Attorney primarily representing employers	Jack Barrett	1 year term
1 Attorney primarily representing employers	Max Sheils	3 year term

1 Medical Provider representative	Steve Millard	2 year term
1 Attorney primarily representing claimants	John Greenfield	3 year term
1 Attorney primarily representing claimants	Keith Hutchinson	1 year term
1 Representative of workers	Willis Norton	3 year term
1 Representative of employers	Linda Sams	3 year term
1 Representative of the insurance industry	Bob Shosted	1 year term

The Commissioners and members thanked Chairman Tracy Whigam for his service as Chairman and also thanked Alan Gardner for his past participation. Mr. Gardner's term expired and he chose not to seek re-election.

Other Issues:

Industrial Commission Report

Annual Workers' Compensation Seminar

Industrial Commission Director Mindy Montgomery presented information on the Commission's Annual Workers' Compensation seminar being held September 29, 2004, at the Boise Centre on the Grove. Ms. Montgomery summarized the details of the seminar including the keynote speaker, Richard Pimentel. She encouraged everyone to attend.

ISIF Manager

Commission Chairman R.D. Maynard reported that interviews by the Commission for the vacancy created by the resignation of Lonna Gray as Manager of the Industrial Special Indemnity Fund have been completed. The Commission has submitted the names of three candidates to the Department of Administration. It is not known when a decision will be made.

Chairman Maynard also reported that two Commission employees, Alan Conilogue, Bureau Chief of Benefits Administration, and Lora Breen, Referee, have been called to active duty and are being deployed to Iraq. They will be on leave from the Commission for approximately two years. The Commissioners will be conducting more hearings in Lora Breen's absence.

Update on Senator Goedde's Concerns

Commissioner Limbaugh indicated that Senator Goedde has been involved in meetings with the Idaho Hospital Association, Idaho Medical Association, and Liberty Northwest to discuss his concerns regarding the reimbursement to providers in the workers' compensation system. Commissioner Limbaugh has not had an opportunity to meet with Senator Goedde, but has plans to meet with him in the near future.

Potential Workers' Compensation Legislation

Alan Gardner reported that he is uncertain if IACI would be presenting the same legislation they did last year. Chairman Tracy Whigam asked about an educational presentation for the legislature on the role of the Industrial Commission. Commissioner Limbaugh stated that the Commission is working on an educational program to present to as many legislators as possible. It was also suggested that the role of the Industrial Commission's Advisory Committee be included in the presentation. Members volunteered to participate in the presentation if needed.

After some discussion, the Advisory Committee decided to reappoint volunteers to each of the subcommittees and re-establish the mission of each subcommittee at the next Advisory Committee meeting.

Lack of consensus was revisited and discussed. It was suggested that language be added to the Advisory Committee charter for clarification to legislators that "no consensus" means that the Advisory Committee as a whole has no opinion. After further discussion, consensus of the members was not to change the Advisory Committee charter, but to educate legislators on the meaning of "no consensus".

The next meeting was scheduled for November 10, 2004 at 9:30 a.m. However, it was suggested that those who would like to "meet and greet" the new members of the Advisory Committee come at 9:00 a.m.

Topics for discussion at the next meeting:

- Medical Fee Database – Dave Gribskov
- Commission Finances – Bob Shosted
- Appoint volunteers for subcommittees – John Greenfield
- Discuss the mission of each subcommittee – John Greenfield
- ISIF Manager Introduction -
- Proposed legislation
- Letter on deposition and conference fees – Keith Hutchinson